

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Team # 7	CCRB Case #: 200905062	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/21/2009 10:15 AM	Location of Incident: Randall Avenue and Soundview Avenue	Precinct: 43	18 Mo. SOL 9/21/2010	EO SOL 9/21/2010	
Date/Time CV Reported Thu, 04/02/2009 3:04 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/02/2009 3:04 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Nathaniel Anthony	03172	923516	043 PCT
3. POM Miguel Iglesias	15012	941926	043 PCT
4. LT Evelyn Carlo	00000	903561	043 PCT
5. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.POM Nathaniel Anthony	Force: PO Nathaniel Anthony pointed his gun at § 87(2)(b)	
B.POM Miguel Iglesias	Force: PO Miguel Iglesias pointed his gun at § 87(2)(b)	
C. Officers	Force: Officers pointed their guns at § 87(2)(b)	
D.POM Nathaniel Anthony	Force: PO Nathaniel Anthony struck § 87(2)(b) with a gun.	
E.POM Nathaniel Anthony	Force: PO Nathaniel Anthony used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	
G. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
H.LT Evelyn Carlo	Abuse: Lt. Evelyn Carlo authorized the strip-search of § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

§ 87(2)(b) filed a complaint with the CCRB using the telephone on April 2, 2009.

On March 21, 2009, at approximately 10:15 AM, § 87(2)(b) was arrested for criminal sale of a controlled substance. The following allegations resulted:

Allegation A- Force: PO Nathaniel Anthony pointed his gun at § 87(2)(b)

Allegation B- Force: PO Miguel Iglesias pointed his gun at § 87(2)(b)

Allegation C-Force: Officers pointed their guns at § 87(2)(b)

§ 87(2)(g)

Allegation D- Force: PO Nathaniel Anthony struck § 87(2)(b) with his gun.

§ 87(2)(g)

Allegation E- Force: PO Nathaniel Anthony used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation F- Force: Officers used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation G- Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(g)

Allegation H- Abuse of Authority: Lt. Evelyn Carlo authorized the strip search of § 87(2)(b)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) is a Hispanic male whose date of birth is § 87(2)(b). § 87(2)(b) is 5'9" tall and weighs 180 pounds. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on April 30, 2009 (encl. 7A-E). On March 21, 2009, at approximately 10:00 a.m., § 87(2)(b) was walking on Soundview Avenue towards Randall Avenue after leaving his methadone clinic § 87(2)(b). § 87(2)(b) was walking with two other people from the clinic, but did not know their names and only knew them from seeing them in the clinic. § 87(2)(b) was crossing Soundview Avenue and he was almost hit by a grey, unmarked police van. A grey or gold unmarked car was right behind the van. Five officers jumped out of the two cars with their guns drawn and pointed and yelled, "Everybody freeze, where's the stuff? Give me what you got." § 87(2)(b) was afraid because he thought that he was being robbed and yelled that he didn't have anything on him and that he was coming from a methadone clinic and was on his way to church.

§ 87(2)(b) was unable to provide physical descriptions of all of the officers on the scene but stated that he has interacted with and been arrested by one of the officers there several times. § 87(2)(b)

§ 87(2)(b) stated that he thought this officer's name was, "Anthony." PO Anthony was a dark skinned Hispanic, somewhere between 180-210 pounds, between 5'9" and 6'0" tall, had short hair and was in plain clothes.

§ 87(2)(b) was hit in the back of the head. § 87(2)(b) stated that he thinks he was hit by PO Anthony because after he was hit in the head, he was pushed to the ground and when he looked up, PO Anthony was kneeling on § 87(2)(b) pushing his knee in to § 87(2)(b)'s back. § 87(2)(b) stated that he was hit with a blunt object that he thought was a gun. PO Anthony told § 87(2)(b) and searched him. § 87(2)(b) responded that he would comply with being searched, on the condition that if nothing was found on him he would be released. PO Anthony agreed and pulled § 87(2)(b) off the ground by the hood on his sweatshirt. PO Anthony then dragged § 87(2)(b) to the police van and leaned him up against the hood of the van. PO Anthony then searched § 87(2)(b). PO Anthony first ran his hands over § 87(2)(b)'s clothes and then looked in § 87(2)(b)'s pockets.

PO Anthony then said, "Get in to the van. We'll figure everything out and do the paperwork at the precinct." § 87(2)(b) stated that he was not going to get in to the van because nothing was found on him during the search and because he had done nothing wrong. Three officers then shoved § 87(2)(b) to the ground, injuring § 87(2)(b)'s back, and dragged him in to the van. § 87(2)(b) stated that PO Anthony was one of the officers who dragged him in to the van. § 87(2)(b) could not provide physical descriptions of the other officers besides stating that one of them was a white male and the other was a short, stocky, dark skinned Hispanic male. The officers were punching § 87(2)(b) in the face while dragging him in to the van.

Once in the van, § 87(2)(b) became very emotional and continued to protest, telling the officers that he should be released because he had done nothing wrong. Another officer, a white male who appeared to be Italian and looked like Alec Baldwin, said, "If you don't shut up I'm going to punch you in the face." § 87(2)(b) stated that he was brought to the precinct and put through the system.

Attempts to Contact Civilians

§ 87(2)(b) and § 87(2)(b) were both arrested by PO Anthony at the time of the incident. The investigator was unable to contact § 87(2)(b) and § 87(2)(b)

NYPD Statement(s):

Subject Officer: PO NATHANIEL ANTHONY

- PO Anthony is a Hispanic male with brown eyes. He is 6'0" tall and weighs 230 pounds.
- PO Anthony was assigned to SNEU and worked with PO Cuadra and PO Iglesias. PO Anthony was in plain clothes and assigned to a mini-van.

Memo Book Entries

PO Anthony wrote that at 10:00 AM, two individuals were arrested for § 87(2)(b) and one individual was arrested for § 87(2)(b) (encl. 8A-B).

CCRB Testimony

PO Anthony was interviewed at the CCRB on September 1, 2009 (encl. 9A-B). On March 21, 2009, PO Anthony was doing a SNEU set in the vicinity of Randall Avenue and Soundview Avenue in the Bronx. PO Anthony was inside of a mini-van with PO Cuadra and PO Iglesias. PO Cuadra was the driver. PO Cuadra observed two individuals, identified as § 87(2)(b) and § 87(2)(b) standing on the corner of Randall Avenue and Soundview Avenue. The individuals made several phone calls while standing on the corner. The two individuals had been on the corner for more than five minutes when § 87(2)(b) arrived. One of the individuals approached § 87(2)(b) handed him cash and walked back to the other individual. § 87(2)(b) motioned both individuals to walk back towards him and towards a bodega on the corner. Both individuals approached § 87(2)(b) and § 87(2)(b) passed one of the individuals a small plastic twist bag. All three individuals began walking away together. PO Anthony got out of the van at this point, and approached § 87(2)(b) PO Anthony said, "Excuse me sir, come over here." § 87(2)(b) said, "For what?" § 87(2)(b) began walking away from PO Anthony.

PO Anthony followed after § 87(2)(b) and grabbed one of his hands. PO Anthony could not remember which of § 87(2)(b)'s hands he grabbed. § 87(2)(b) tried to flail his arms and run away from PO Anthony, so PO Anthony brought § 87(2)(b) to the ground so that § 87(2)(b) was lying on his stomach. PO Anthony then rear cuffed § 87(2)(b) PO Anthony did not strike § 87(2)(b) with his gun and did not hit § 87(2)(b) with any other blunt object.

PO Anthony stood § 87(2)(b) up and frisked him, to make sure that he did not have any weapons, which he didn't. PO Anthony remained outside of § 87(2)(b)'s clothing during this frisk and no items of § 87(2)(b)'s were removed. PO Anthony did not remember if § 87(2)(b) was compliant after he was arrested. PO Anthony could not recall if § 87(2)(b) walked to the van voluntarily or if he had to be pulled and dragged. PO Anthony did not punch § 87(2)(b) in the face and did not see any other officer do so. PO Anthony did not request that § 87(2)(b) be strip searched, and he did not hear anyone else do so. PO Anthony recalled that he has interacted with § 87(2)(b) on several other occasions for narcotics related violations.

Witness Officer: PO MIGUEL IGLESIAS

- PO Iglesias is a § 87(2)(b) old Hispanic male. PO Iglesias has brown hair, brown eyes, stands 6'1" tall and weighs 200 pounds.

- PO Iglesias was assigned to SNEU and worked with PO Cuadra and PO Anthony in an unmarked van.

Memo Book

PO Iglesias did not have any entries in his memo book in regards to this incident (encl. 10A-C).

CCRB TESTIMONY

PO Iglesias was interviewed at the CCRB on September 22, 2009 (encl. 11A-B). PO Iglesias was doing a SNEU set in the vicinity of Randall Avenue and Soundview Avenue in the Bronx. He observed an individual standing on the corner making multiple phone calls over the span of fifteen minutes. Another individual arrived on the corner. These two individuals were § 87(2)(b) and § 87(2)(b) arrived on the corner after several minutes, and § 87(2)(b) and § 87(2)(b) began speaking. § 87(2)(b) then handed off a small plastic bag with heroin inside of it to § 87(2)(b). PO Iglesias and the other officers in the van were going over the radio to the officers in the chase car to let them know what was going on, and to tell them that they were going to move in. PO Iglesias exited the van and said, "Police, stay where you are." PO Iglesias did not have his gun drawn, and he did not recall any other officer having his gun drawn. § 87(2)(b) dropped the bag with heroin in it on to the floor. PO Iglesias did not have any type of physical interaction with § 87(2)(b). PO Iglesias apprehended either § 87(2)(b) or § 87(2)(b) but he could not recall which one. PO Iglesias was only paying attention to his arrest, and he did not see what was going on with § 87(2)(b). After the individuals were all arrested, they were briefly searched, to make sure that they did not have further contraband or weapons on them. PO Iglesias did not search § 87(2)(b). PO Iglesias did not see any officer searching under § 87(2)(b)'s clothing. PO Iglesias did not punch § 87(2)(b) in the face and he did not see any other officer do so. PO Iglesias could not recall if § 87(2)(b) walked to the police van, or if he was dragged.

PO Iglesias stated that the supervisor arrived on the scene while the individuals were in the process of getting handcuffed and he believed the supervisor was Lt. Carlo.

Witness Officer: LT. EVELYN CARLO

- Lt. Carlo is a § 87(2)(b) old Hispanic female. Lt. Carlo has brown hair and brown eyes, stands at 5'1" tall and weighs 130 pounds.
- Lt. Carlo worked as the SNEU supervisor.

Memo Book

Lt. Carlo did not have her memo book because it was destroyed in a washing machine.

CCRB Testimony

Lt. Carlo was interviewed at the CCRB on October 30, 2009 (encl. 12A-B). Lt. Carlo did not recall this incident. The investigator showed Lt. Carlo a photo of § 87(2)(b) and provided a synopsis of the incident and Lt. Carlo had no recollection. Lt. Carlo stated that it is possible she was the SNEU supervisor on the incident date because she often covers as the SNEU supervisor. Lt. Carlo stated that the incident as described by the investigator is the type of incident she would respond to as the SNEU supervisor. Lt. Carlo stated that she "might" recall working with PO Anthony on the incident date but did not recall working with PO Iglesias. Lt. Carlo did not recall any arrests made by PO Anthony on the incident date. Lt. Carlo did not recall any officer using their gun as a blunt object against a civilian and did not recall any officer punching any civilian in the face.

Officers Not Interviewed

PO Cuadra was not interviewed § 87(2)(b), § 87(2)(g)

NYPD Document(s)

Roll Call

The roll call indicates that PO Anthony, PO Iglesias and PO Cuadra were assigned to SNEU and worked from 7:00 AM to 3:35 PM. Lt. Carlo worked from 6:50 AM to 3:30 PM (encl. 13A-V).

Command Log

The command log indicates that § 87(2)(b) and § 87(2)(b) were arrested at 10:30 AM in the vicinity of Randall Avenue and Rosedale Avenue by PO Anthony. The command log indicates that a strip search was authorized by Lt. Carlo (encl. 14A-K).

Arrest Reports

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) s arrest report was prepared by PO Anthony. The report states that § 87(2)(b) was observed accepting a quantity of a controlled substance from two other individuals (encl. 16A-B).

§ 87(2)(b) s arrest report was prepared by PO Anthony. The report states that § 87(2)(b) was observed acting in concert with one other individual in giving a quantity of a controlled substance to another apprehended individual (encl. 17A-B).

Medical Records

§ 87(2)(b) went to the emergency room at § 87(2)(b) on § 87(2)(b), approximately three weeks after the incident. He complained of back pain and was prescribed Motrin for pain. His discharge condition is described as “improved (encl. 18).”

Status of Civil Proceedings

§ 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming that he was arrested using excessive physical force, searched and later strip searched, including a cavity search. § 87(2)(b) is seeking 3 million dollars as redress (encl. 19A-P).

Civilian(s) Criminal History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c)

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 5).

Subject Officer(s) CCRB History

- PO Anthony has been a member of the service for 10 years and there are no substantiated CCRB allegations against him (encl. 2).
- PO Iglesias has been a member of service for 3 years and there are no substantiated CCRB allegations against him (encl. 4).
- Lt. Carlo has been a member of service for 16 years and there are no substantiated CCRB allegations against her (encl. 3).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) identified PO Anthony, stating that he knew him from previous interactions and arrests. PO Anthony's involvement was further confirmed using the arrest reports for the other two individuals with § 87(2)(b) at the scene, § 87(2)(b) and § 87(2)(b)

Investigative Findings and Recommendations

Allegation A- Force: PO Nathaniel Anthony pointed his gun at § 87(2)(b)

Allegation B- Force: PO Miguel Iglesias pointed his gun at § 87(2)(b)

Allegation C-Force: Officers pointed their guns at § 87(2)(b)

§ 87(2)(b) stated that PO Anthony, PO Iglesias and all of the other officers present pointed their guns at § 87(2)(b) and § 87(2)(b) as they exited their vehicle. PO Anthony and PO Iglesias denied taking their guns out of their holsters and stated that they did not see any other officers with their guns drawn. § 87(2)(g)

Allegation D- Force: PO Nathaniel Anthony struck § 87(2)(b) with his gun.

§ 87(2)(b) stated that he was brought to the ground by PO Anthony while PO Anthony was handcuffing him. § 87(2)(b) stated that he was on his stomach and PO Anthony struck him in the back of his head with his gun, or another blunt object. § 87(2)(b) stated that he could not be certain what blunt object he was hit with, but stated that he knew it was PO Anthony who hit him because he turned around and saw PO Anthony above him. PO Anthony stated that he did not strike § 87(2)(b) with his gun. PO Anthony stated that he did not strike § 87(2)(b) with any other blunt object, and did not remove his asp or nightstick at any point during the incident.

§ 87(2)(g)

Allegation E- Force: PO Nathaniel Anthony used physical force against § 87(2)(b)

§ 87(2)(b) stated that he was dragged on the ground and handcuffed by PO Anthony. § 87(2)(b) further alleged that PO Anthony then dragged him on the ground to the police van. PO Anthony stated that he did not drag § 87(2)(b) on the ground. PO Anthony stated that when he approached § 87(2)(b) to stop him, § 87(2)(b) began walking away from PO Anthony and did not listen to verbal commands to stay where he was. PO Anthony attempted to handcuff § 87(2)(b) and § 87(2)(b) began to flail his arms and attempted to run away from PO Anthony. PO Anthony acknowledged that he brought § 87(2)(b) to the ground, so that he would be able to rear cuff him. PO Anthony could not recall if § 87(2)(b) became more compliant after he was handcuffed and stated that he could not recall if § 87(2)(b) voluntarily walked to the police van or if he required assistance. § 87(2)(g)

Allegation F- Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) stated that three officers besides PO Anthony dragged him in to the police van after PO Anthony searched him, and punched him in the face. PO Anthony stated that no other officers assisted him in arresting § 87(2)(b). PO Anthony and PO Iglesias both stated that they did not see any officer punch § 87(2)(b) in the face. PO Anthony stated that while other officers did arrive on the scene, he could not recall who arrived. PO Iglesias stated that Lt. Carlo arrived on the scene. Lt. Carlo did not recall the incident and did not recall seeing any civilian get punched in the face. § 87(2)(g)

Allegation G- Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that an officer threatened him by saying, "If you don't shut up, I'm going to punch you in the face." § 87(2)(b) stated that the officer that said this was a white male who

appeared to be Italian and was a sergeant. PO Iglesias stated that the supervisor who responded to the scene was Lt. Evelyn Carlo, a Hispanic female. Lt. Carlo stated that she did not hear any officer threaten § 87(2)(b) with the use of force. PO Anthony and PO Iglesias both stated that they did not threaten § 87(2)(b) with the use of force and they did not hear any other officer do so. § 87(2)(g)

Allegation H- Abuse of Authority: Lt. Evelyn Carlo authorized the strip search of § 87(2)(b)

§ 87(2)(b) stated that PO Anthony frisked and searched him, and after searching § 87(2)(b)'s pockets, PO Anthony put on a pair of rubber gloves, pulled § 87(2)(b)'s pants down and searched, "Under his underwear," exposing § 87(2)(b)'s genitals. In his suit against the city, § 87(2)(b) states that he was subject to a cavity search. § 87(2)(b) did not make this assertion in his CCRB statement. PO Anthony stated that he did not remove any of § 87(2)(b)'s clothing and stated that he did not strip search § 87(2)(b). PO Anthony was shown the command log, where a strip search was notated. PO Anthony did not know who requested that § 87(2)(b) be strip searched and stated that he made no such request. Lt. Carlo did not recall the incident. § 87(2)(b) described the search as occurring on the street, and not in the precinct. Lt. Carlo stated that if a strip search occurred, it would happen in the precinct and not on the street. Lt. Carlo did not recognize § 87(2)(b) when shown his photograph and did not recall the notation in the command log. Even though PO Anthony stated that he did not participate in a strip search and Lt. Carlo did not recall the incident, the command log entry indicates that § 87(2)(b) was strip searched. Patrol Guide Procedure 208-05 states that officers may conduct a strip search when the officer suspects that, "weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods (encl. 1C-D)." § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
_____ Title/Signature Print Date